

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Michael Kubayanda, Vice Chairman;
Mark Acton;
Ann C. Fisher; and
Ashley E. Poling

Transfer of Inbound Market Dominant
Exprès Service Agreement 1, Inbound
Market Dominant Registered Service
Agreement 1, Inbound Market Dominant
PRIME Tracked Service Agreement,
Australian Postal Corporation - United
States Postal Service Bilateral Agreement,
and Canada Post Corporation - United
States Postal Service Bilateral Agreement
Negotiated Service Agreements to the
Competitive Product List

Docket No. MC2020-73

NOTICE AND ORDER CONCERNING TRANSFER OF MARKET DOMINANT
NEGOTIATED SERVICE AGREEMENTS TO THE COMPETITIVE PRODUCT LIST

(Issued December 17, 2019)

I. INTRODUCTION

On December 13, 2019, the Postal Service filed a notice with the Commission pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, requesting the transfer of five negotiated service agreements (NSAs) from the market dominant product list in the Mail

Classification Schedule (MCS) to the competitive product list.¹ These five agreements include: Inbound Market Dominant Express Service Agreement 1, Inbound Market Dominant Registered Service Agreement 1, Inbound Market Dominant PRIME Tracked Service Agreement, Australian Postal Corporation (Australia Post) – United States Postal Service Bilateral Agreement, and Canada Post Corporation (Canada Post) – United States Postal Service Bilateral Agreement NSAs. Request at 1-2. In support of its Request, the Postal Service filed the following documents:

- Attachment 1—Statement of Supporting Justification;
- Attachment 2—Governors Resolution No. 19-5;
- Attachment 3—Draft MCS language;
- Attachment 4—Redacted copy of the most recent Inbound Market Dominant Express Service Agreement 1;
- Attachment 5—Redacted copy of the most recent Inbound Market Dominant Registered Service Agreement 1;
- Attachment 6—Redacted copy of the most recent Inbound Market Dominant PRIME Tracked Service Agreement;
- Attachment 7—Redacted copy of the most recent list of parties to the Inbound Market Dominant Express Service Agreement 1, the Inbound Market Dominant Registered Service Agreement 1, and the Inbound Market Dominant PRIME Tracked Service Agreement;
- Attachment 8—Redacted copy of the Australia Post Bilateral Agreement;
- Attachment 9—Redacted copy of the Canada Post Bilateral Agreement; and
- Attachment 10—Application for non-public treatment.

The Postal Service asserts that these products fulfill all of the criteria for competitive products. See *id.* at 11-15. Specifically, the Postal Service states that “the market power provisions of 39 U.S.C. [] 3642(b)(1) do not prevent the transfer” of these

¹ United States Postal Service Request to Transfer the Inbound Market Dominant Express Service Agreement 1, Inbound Market Dominant Registered Service Agreement 1, Inbound Market Dominant PRIME Tracked Service Agreement, Australian Postal Corporation – United States Postal Service Bilateral Agreement, and Canada Post Corporation – United States Postal Service Bilateral Agreement to the Competitive Product List, December 13, 2019, at 1-2 (Request).

products, that they satisfy the standards for competitive products under 39 U.S.C. 3633, and that the Request's content is sufficient, pursuant to 39 CFR 3020.31. *Id.*

The Postal Service states that transfer is appropriate for three primary reasons: “[b]ecause (i) the Commission conditionally approved the removal of Inbound Letter Post small packets and bulky letters from the Inbound Letter Post product on the market dominant product list and the addition of the Inbound Letter Post Small Packets and Bulky Letters product to the competitive product list [in Docket No. MC2019-17], (ii) the items to which the services provided under the three PRIME agreements and Australia Post bilateral five agreements are applied are treated as E format items, and (iii) all of the inbound portions of the Canada Post bilateral that are currently included in the market dominant product list concern Inbound Letter Post Small Packets and Bulky Letters items.” *Id.* at 8-9 (footnotes omitted). For these reasons, the Postal Service concludes that the Commission should transfer these products from the market dominant product list to the competitive product list. *Id.* at 15.

II. COMMISSION ACTION

The Commission establishes Docket No. MC2020-73 to consider the Postal Service's proposals described in its Request. Interested persons may submit comments on whether the Request is consistent with the policies of 39 U.S.C. 3632, 3633, and 3642 and 39 CFR 3020.30 *et seq.* Comments are due by January 3, 2020.

The Request and related filings are available on the Commission's website (<http://www.prc.gov>). The Commission encourages interested persons to review the Request for further details.

The Commission appoints Anne C. O'Connor to serve as Public Representative in this proceeding.

III. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. MC2020-73 for consideration of the matters raised by the United States Postal Service Request to Transfer the Inbound Market Dominant Exprès Service Agreement 1, Inbound Market Dominant Registered Service Agreement 1, Inbound Market Dominant PRIME Tracked Service Agreement, Australian Postal Corporation – United States Postal Service Bilateral Agreement, and Canada Post Corporation – United States Postal Service Bilateral Agreement to the Competitive Product List, filed December 13, 2019.
2. Pursuant to 39 U.S.C. 505, Anne C. O'Connor is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments by interested persons are due by January 3, 2020.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Ruth Ann Abrams
Acting Secretary